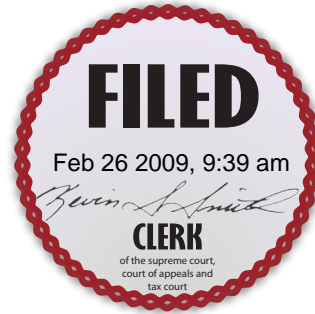


Pursuant to Ind.Appellate Rule 65(D), this Memorandum Decision shall not be regarded as precedent or cited before any court except for the purpose of establishing the defense of res judicata, collateral estoppel, or the law of the case.



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**IN THE
COURT OF APPEALS OF INDIANA**

Z.S.,)	
)	
Appellant-Respondent,)	
)	
vs.)	No. 49A05-0808-JV-492
)	
STATE OF INDIANA,)	
)	
Appellee-Petitioner.)	

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Gary K. Chavers, Judge Pro Tempore
The Honorable Scott B. Stowers, Magistrate
Cause No. 49D09-0802-JD-462

February 26, 2009

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAILEY, Judge

Case Summary

Appellant-Respondent Z.S. appeals the true finding that he committed a delinquent act that would be Theft, as a Class D felony, if committed by an adult. We affirm.

Issue

Z.S. raises one issue on appeal: whether there is sufficient evidence that he committed the delinquent act.

Facts and Procedural History

On February 8, 2008, Tru Motorsports received a shipment of car parts, and Ivan Martinez, a store employee, put one of the large boxes outside the backdoor because the entire shipment could not fit in the store's back room. The large box was placed in view of the security camera. Shortly thereafter, Z.S. rode his bicycle behind Tru Motorsports, saw the box and stopped to look at its contents. As captured on the surveillance video, Z.S. put his jacket hood over his head and attempted to move the large box. First, he tried to pull it. Then he pushed it into the middle view of the camera. He took a break and then pushed it completely out of the view of the camera. As he was closing up the store that evening, Martinez noticed that the box of parts was gone and notified Jorge Lacayo, the owner of Tru Motorsports. The box, then empty, was found in a dumpster, fifty yards away from where the box was originally placed.

The State filed a delinquency petition alleging that Z.S. committed what would have been Theft had he been an adult. After a factfinding hearing, the juvenile court found that Z.S. committed the alleged delinquent act. The juvenile court awarded wardship to the

Indiana Department of Correction but suspended the placement to probation.

Discussion and Decision

Z.S. argues that the State failed to present sufficient evidence that he committed the alleged delinquent act; specifically, that he had the intent to commit theft. The standard of review for a claim of insufficient evidence is well-established:

When reviewing a juvenile delinquency adjudication, we will consider only the evidence and reasonable inferences supporting the judgment. We neither reweigh the evidence nor judge witness credibility. If there is substantial evidence of probative value from which a reasonable trier of fact could conclude beyond a reasonable doubt that the juvenile committed the delinquent act, we will affirm the adjudication.

B.R. v. State, 823 N.E.2d 301, 306 (Ind. Ct. App. 2005) (citation omitted).

According to Indiana Code Section 35-43-4-2.5, the State was required to prove that Z.S. knowingly or intentionally exerted unauthorized control over the property of Tru Motorsports with the intent to deprive the owner of its value or use.

Indiana Code Section 35-41-2-2 states, “[a] person engages in conduct ‘intentionally’ if, when he engages in the conduct, it is his conscious objective to do so.” Intent can be inferred from a defendant’s conduct and the natural and usual sequence to which such conduct logically and reasonably points. The fact finder is entitled to infer intent from the surrounding circumstances. Intent is a mental function; hence, absent a confession, it often must be proven by circumstantial evidence.

Hightower v. State, 866 N.E.2d 356, 367-68 (Ind. Ct. App. 2007) (citations omitted), trans. denied.

Here, an employee of Tru Motorsports placed a large box, containing new auto parts, just outside the backdoor of the business. Around two or three o’clock in the afternoon, Z.S.

rode his bike behind Tru Motorsports and noticed the box. Z.S. testified that the box was larger than he was and that he looked inside of the box. Z.S. admitted that there were items with plastic over them in what appeared to be a new box. Z.S. stated that he pushed or scooted the box away from the backdoor, towards a dumpster. Later that afternoon after a search for the box of new car parts, employees of Tru Motorsports were only able to find the empty box in a dumpster.

Based on this circumstantial evidence, a reasonable factfinder could infer from the evidence presented that Z.S. had the requisite intent to deprive Tru Motorsports of the value or use of the new car parts at issue. Therefore, there is sufficient evidence to support the true finding that Z.S. committed a delinquent act that would be Theft, as a Class D felony, if committed by an adult.

Affirmed.

MATHIAS, J., and BARNES, J., concur.